REMARKS

The indication of allowable subject matter in claims 4, 5, 9, 14, 15, 19, 40, 41, 45, 53, 54 and 58 is acknowledged and appreciated. In view of the following remarks, it is respectfully submitted that all claims are in condition for allowance.

In order to expedite prosecution and consolidate Applicants' application, each of the withdrawn independent claims were previously amended in a manner similar to the elected independent claims and are submitted to be allowable for at least reasons similar to those discussed below regarding the elected claims. Accordingly, Applicants respectfully request that the Examiner rejoin the withdrawn claims.

Claims 1-3, 6-8, 10-13, 16-18, 20-23, 36-39, 42-44, 46-52, 55-57 and 59-70 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Taniguchi et al. '134 ("Taniguchi"), and claims 1-3, 6-8, 10-13, 16-18, 20-23, 28-31, 34-37, 39, 42-44, 47, 48, 52, 55-57, 60, and 63-70 stand rejected under 35 U.S.C. § 103 as being unpatentable over Jang et al. '375 in view of Taniguchi. Claims 1, 2, 22, 24, 26, 28, 30, 32-37, 63 and 65-72 are independent. These rejections are respectfully traversed for the following reasons.

The Examiner indicates that Applicants' arguments filed in the response dated April 27, 2004 were rendered moot in view of the new ground of rejection. However, it is respectfully submitted that the Examiner has maintained the same ground of rejection under § 102 over Taniguchi without substantively responding to Applicants' previously filed arguments. That is, the Examiner has not addressed Applicants' arguments previously made with respect to Taniguchi disclosing ***random*** dot patterns. The Examiner is directed to MPEP § 707.07(f) under the heading "Answer All Material Traversed", which states that "[w]here the applicant traverses

any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it."

In the instant case, the only difference between the prior rejection and the outstanding rejection appears to be the Examiner's new reliance on Figures 6A,6B rather than 18A, 18B. Indeed, the Examiner relies on the same portions of the written disclosure of Taniguchi (i.e., col. 3, line 16 – col. 4, line 7) as allegedly disclosing the claimed "predetermined rule". However, the relied on portions of Taniguchi (i.e., col. 3, lines 16+) merely refer to the required parameters that need to be met by the ***final*** dot pattern based on the initial ***randomly*** disposed dots. In this regard, every pattern is randomly disposed and thereafter modified to meet the listed parameters. Accordingly, each of the patterns of Taniguchi are based on an initially ***random*** layout so as to teach away from reproducibility of a given pattern or characteristic.

As previously noted, Taniguchi expressly discloses that "the dots are formed and disposed at ***random*** ..." (emphasis added; col. 3, lines 11-12). Indeed, with respect to newly relied on Figure 6, Taniguchi expressly discloses that "the disposition of the dots are determined by making use of ***random*** numbers" (*see* col. 16, lines 46-48). In this regard, it is respectfully submitted that neither Figure 6 nor Figure 18 of Taniguchi discloses or suggests any portion of a concave/convex shape which is arranged regularly according to a predetermined rule so as to have a reproducible characteristic. Taniguchi further discloses that "[i]n the course of developing the color liquid crystal display device ... various ***random*** dot patterns have been prepared and examined, as a result of which it has been formed that the random dot pattern should be so formed and disposed as to meet the requirements described hereinbefore in conjunction with the aspects or features of the invention" (emphasis added; col. 12, lines 17-24).

To meet this end, Taniguchi discloses first preparing a random dot pattern which is thereafter adjusted to meet certain requirements.

Accordingly, the resulting design is not arranged ***regularly*** according to a predetermined rule because it originates from a ***random initial design***. Taniguchi describes the method of forming the initial design at col. 15, lines 24+:

> as a method of determining the coordinates (x, y) of the dots disposed at ***random without regularity***, there is proposed according to the present invention a high-efficiency dot coordinates determining method which includes the steps or procedures described below ... Random number are generated by making use of random number generating function incorporated in a computer or the like, and the random number as generated are used to determine the coordinates (x, y) for the random dot disposition. (emphasis added)

With respect to the new reliance on Figures 6A,6B of Taniguchi, the Examiner alleges that Figure 6B discloses a dot pattern that is repeatedly arranged in each region thereof so as to have the same pattern in all regions, thereby allegedly resulting in the same optical characteristics in all the dot regions. It is not understood on what basis the Examiner makes the aforementioned allegation, and more importantly, it is not understood why such an allegation would be relevant to the present invention.

With respect to the former, it appears that the Examiner supports his position by relying on the relative positions of the dots shown in Figure 6B, ***without written support from the specification*** of Taniguchi that the dots are necessarily repeatedly arranged. The Examiner is directed to MPEP § 2125 under the heading "PROPORTIONS OF FEATURES IN A DRAWING ARE NOT EVIDENCE OF ACTUAL PROPORTIONS WHEN DRAWINGS ARE NOT TO SCALE" which sets forth the applicable standard: "[w]hen the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on

measurement of the drawing features are of little value." See *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000) (The disclosure gave no indication that the drawings were drawn to scale. "[I]t is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue.").

Nonetheless, even assuming *arguendo* that the Examiner's allegation that Figure 6B illustrates dot patterns which are repeatable within each dot region, such an allegation is not relevant to the present invention. As previously mentioned, Taniguchi relies on an initial pattern formed by a random disposition of dots. Thereafter, modification is made to achieve certain parameters. Accordingly, any given pattern or characteristic for a single reflector in Taniguchi is NOT affirmatively designed to be reproducible for another reflector notwithstanding the allegation that the design may include a repeating pattern within the same reflector. In other words, the alleged repeatability within the given design shown in Figure 6B of Taniguchi for a single reflector is completely unrelated to the design of another pattern formed, for example, at a later time for a different reflector.

Each pattern formed for respective reflectors by the method disclosed by Taniguchi is subject to an initial random layout so that different reflectors have independently designed patterns, whereby any two reflectors are not affirmatively designed to have the same final pattern or characteristic. That is, the pattern or characteristic created for a given reflector in Taniguchi is not affirmatively designed to be reproducible for another reflector. It should be noted that using subsequent common parameters for the reflectors does not result in an intended reproducible final pattern because of the initial randomness of the starting dot layout among the reflectors.

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently (noting that "inherency may not be established by probabilities or possibilities", *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the forgoing, it is submitted that Taniguchi does not anticipate the independent claims, nor any claim dependent thereon.

The Examiner is further directed to MPEP § 2143.03 under the section entitled "All Claim Limitations Must Be Taught or Suggested", which sets forth the applicable standard for a § 103 rejection:

> To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (citing *In re Royka*, 180 USPQ 580 (CCPA 1974)).

In the instant case, the pending rejection does not "establish *prima facie* obviousness of [the] claimed invention" as recited in the pending claims because the cited prior art fails the "all the claim limitations" standard required under § 103.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as the independent claims are patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

Based on all the foregoing, it is submitted that claims 1-84 are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejections under 35 U.S.C. § 102/103 be withdrawn.

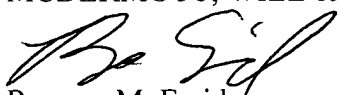
CONCLUSION

Having fully and completely responded to the Office Action, Applicants submit that all of the claims are now in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY



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